



## SECTION 18

**KDHE's BROWNFIELDS PROGRAM**

The VCPRP establishes a streamlined program which, through its voluntary nature, provides benefits to property owners, real estate purchasers and developers and lending institutions to facilitate the buying, selling and redevelopment of contaminated properties. Redevelopment of environmentally impacted properties is also encouraged and facilitated through federal and state "Brownfields" programs. Brownfields and Voluntary Cleanup Programs are typically viewed to be complimentary as, in certain cases, property investigations may be conducted through a Brownfields program with expectations that cleanups of these properties would subsequently be achieved through a Voluntary Cleanup program. KDHE has developed a Brownfields program and already in a few cases, assessments of properties have been completed through KDHE's Brownfields program with subsequent cleanup and closure achieved through the VCPRP.



*Brownfields Targeted Assessments can provide a means to evaluate potential environmental liabilities for municipalities in their redevelopment pursuits even where no specific environmental concern has been identified. The City of Derby, Kansas requested that KDHE assess this vacant land for potential redevelopment.*

Municipalities, redevelopment organizations, and not-for-profit organizations involved with redevelopment projects in Kansas are eligible to apply for assistance through KDHE's Brownfields program. Every city and county, in both rural and urban areas, has abandoned, underutilized, and potentially contaminated properties. KDHE currently has programs available to assist with the redevelopment of brownfields.

**KDHE's Brownfields Program includes:**

- **Brownfields Targeted Assessments**
- **Technical Assistance to Communities**

***What are Brownfields?***

The term "brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

Often the potential liability associated with contamination complicates business development, property transactions or expansion on the property. By investigating and cleaning up a brownfields property and taking care of the site's possible health or environmental risks, communities can use local land again to produce jobs, increase the tax base or to add other benefits such as creating parks or residential areas.

When available land for new development is expensive and scarce, brownfields properties can offer significant benefits. For example, brownfields properties often:

- are in desirable locations such as near city centers, in waterfront areas, near transportation access, near utilities and near a ready pool of workers or patrons nearby;
- have facilities that can be reused such as buildings, docks, transportation infrastructure, etc. These may allow reduced costs compared to building new facilities;
- cost less to purchase;
- may be eligible for benefits or incentives such as state and/or federal tax programs and financial assistance; and,
- provide a great value to the community by supporting commercial and/or industrial jobs and improving the tax base or, when appropriate, recreational or leisure opportunities, retail development, increased tourism, and by preserving greenfields from development.

### **KDHE's Brownfields Targeted Assessments**

KDHE, under a Cooperative Agreement with the USEPA, will conduct Brownfield Targeted Site Assessments (BTA) at the request of local units of government, land clearance authorities, regional councils, redevelopment agencies, tribal organizations, not-for-profit organizations, and other quasi-governmental agencies across the state. Often, local governments have acquired contaminated properties through foreclosure for back taxes, land donations, or may already own property that they would like to sell for redevelopment. It is sometimes difficult for communities to find adequate funding to undertake requirements for "All Appropriate Inquiries"



*A long history of industrial and manufacturing use had left an unknown environmental legacy at this property in Leavenworth, Kansas.*



*The Derby property was successfully redeveloped as a recreational facility.*

(Phase I and Phase II Environmental Assessments or conducting Environmental Due Diligence) prior to redevelopment. The All Appropriate Inquiries types of environmental assessments and due diligence are typically required by lending institutions to identify any existing environmental liabilities, which can translate to financial liabilities, prior to releasing funds for property transactions. The BTA Program provides funding and technical assistance to assist communities in assessing properties. Often, it is the unknown in terms of environment liability that dissuades developers from considering properties, not actual contamination. Once communities can demonstrate a particular property is viable for redevelopment, these communities can then encourage redevelopment activities on these unused pieces of property.



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### **What Does A Brownfield Targeted Assessment Include?**

A Brownfields Targeted Assessment currently includes:

- a screening (Phase I) assessment, including a background and historical investigation and a preliminary site inspection.
- a full (Phase II) site assessment, including sampling activities to identify the types and concentrations of contaminants and the areas of contamination that may need to be cleaned up.

The EPA has proposed Federal Regulations (40 CFR Part 312 - not yet final) establishing standards and practices for "All Appropriate Inquiries (AAI)". These proposed federal regulations, as drafted, define and include specific standards for the environmental assessment and environmental due diligence activities for AAI. Following the AAI process may provide a property purchaser some relief or protection from federal environmental liability should an environmental problem be found after a property transaction. For example, should a purchaser of a property satisfy AAI standards prior to purchase of a property and contamination of that property is found later, the purchaser should be able to easily demonstrate they did not know and should have no reason to know of the release of a hazardous substance (contamination) prior to the purchase which could alleviate concerns regarding federal liability. Once the "All Appropriate Inquiries" federal regulations become final, Brownfield Targeted Assessments will be designed to meet the AAI requirements.

KDHE's program targets properties that: are abandoned or publicly owned; have low to moderate contamination; include issues of environmental justice; suffer from the stigma of liability; or have a prospective purchaser willing to buy and pay for the cleanup of the property, if needed.



*Following KDHE's Brownfields Targeted Assessment and cleanup through the VCPRP, this property was developed as a cultural center for the community of Leavenworth.*

### **Brownfields Technical Assistance to Communities**

In addition to the Brownfields Targeted Assessment and Brownfields Cleanup Revolving Loan Fund Programs, KDHE can provide technical assistance to communities. Technical assistance may include:

- discussing results of environmental site assessments;
- determining the appropriate environmental programs for specific properties;
- review of EPA Brownfields grant applications;
- conducting brownfields workshops across the state to discuss brownfields opportunities within communities; and
- individual assistance for communities to discuss specific brownfields redevelopment issues.

**For more information on KDHE's Brownfields Program please contact:**

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